

UNITED STATES OF AMERICA
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
OFFICE OF ADMINISTRATIVE LAW JUDGES

The Secretary, United States
Department of Housing and Urban),
Development, on behalf of),
Border Fair Housing and
Economic Justice Center),
Charging Party,)

v.

FHEO No. 06-06-0090-8

Rosa A. Terrazas and
Jesus Terrazas, Jr.),
Respondents.

CHARGE OF DISCRIMINATION

JURISDICTION

On August 1, 2007, the United States Department of Housing and Urban Development (HUD) issued a Determination of Reasonable Cause and Charge of Discrimination against Respondent Rosa Terraza, said Charge did not include newly discovered information relevant to the determination of reasonable cause. On August 15, 2007, the Assistant Secretary for Fair Housing and Equal Opportunity voluntarily withdrew the charge of discrimination issued on August 1, 2007, and pursuant to the intent stated in the withdrawal letter hereby files this Charge of Discrimination.

On or about October 25, 2005, Border Fair Housing and Economic Justice Center (Complainant Border Fair Housing Center) filed a verified complaint with the United States Department of Housing and Urban Development (HUD), alleging that Rosa Terraza (Respondents) violated the Fair Housing Act as amended in 1988, 42 U.S.C. § 3601 *et seq.* (the Act), by discriminating based on familial status, in violation of 42 U.S.C. § 3604(a) and (b). On April 2, 2007, the complaint was amended to add Jesus Chayito Terraza as the representative for Rosa Terraza, and to add a claim under § 3604(c), for discriminatory advertising to the complaint. The amendment of April 2, 2007 also served to remove the claims under § 3604(b), terms, conditions, privileges, or services and facilities, from the complaint. On August 16, 2007 and August 29, 2007, the complaint was amended to reflect newly discovered information and correct the spelling of the Respondent Rosa A. Terrazas' name and of Jesus Terrazas III's name aka Jesus

"Chuyito" Terrazas, as the name of the representative for Rosa A. Terrazas, and to add Jesus Terrazas, Jr., as another Respondent to the complaint, respectively.

The Act authorizes the issuance of a Charge of Discrimination (Charge) on behalf of an aggrieved person following an investigation and a determination that reasonable cause exists to believe that a discriminatory housing practice has occurred. 42 U.S.C. § 3610(g) (1) and (2). The Secretary has delegated to the General Counsel (54 Fed.Reg. 13121), who has redelegated to the Regional Counsel for Fair Housing Enforcement (67 Fed.Reg. 44234), the authority to issue such a Charge, following a determination of reasonable cause by HUD.

By determination of reasonable cause of September 13, 2007, the Director of the Office of Fair Housing and Equal Opportunity for Region VI, on behalf of the Assistant Secretary for Fair Housing and Equal Opportunity, has determined that reasonable cause exists to believe that a discriminatory housing practice has occurred in this case based on familial status, and has authorized and directed the issuance of this Charge of Discrimination.

II. SUMMARY OF ALLEGATIONS IN SUPPORT OF THIS CHARGE

Based on HUD's investigation of the allegations contained in the aforementioned complaint and the aforementioned Determination of Reasonable Cause, Respondents Rosa A. Terrazas and Jesus Terrazas, Jr., are charged with discriminating against Complainant Border Fair Housing and Economic Justice Center, aggrieved person, based on familial status in violation of 42 U.S.C. § 3604(a) and (c) of the Act as follows:

- It is unlawful to refuse to rent after the making of a bona fide offer, or to refuse to negotiate for the rental of, or otherwise make unavailable or deny, a dwelling to any person because of familial status. 42 U.S.C. § 3604(a).
2. It is unlawful to make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on familial status. 42 U.S.C. § 3604(c).
 3. Complainant Border Fair Housing and Economic Justice Center, is a non-profit corporation organized to promote fair housing and non-discrimination in housing throughout El Paso and its surrounding communities. Complainant is located at 2017 Texas Ave., El Paso, Texas 79901.
 4. Respondents Rosa A. Terrazas and Jesus Terrazas, Jr., own the 15-unit apartment complex, which is the subject property, located at 1427 Wyoming, El Paso, Texas 79902.

5. Complainant Border Fair Housing Center was monitoring the Thrifty Nickel Newspaper for discriminatory housing advertisements.
6. On or about September 3, 2005 through September 22, 2005, an advertisement which is the subject of the complaint ran in the Thrifty Nickel Newspaper which was placed by the Respondent Rosa A. Terrazas. The advertisement read as follows:

“APARTMENTS for rent downtown – 1427 Wyoming, lovely one bedroom apartment, for 2 adults, no pets, has stove/refrigerator, water paid. \$295/\$100 deposit. 565-2882 or cell 539-5073.”
7. On or about September 20, 2005, Complainant Border Fair Housing Center performed a telephonic fair housing test on the subject rental property with two different testers. Complainant identified the first tester to be a mother and her six (6) year old son to rent a one bedroom apartment. Respondent Rosa A. Terrazas informed the tester that the unit was available, but could only be rented to adults. The investigation further disclosed that although there were children in the complex at the time, Respondent Rosa A. Terrazas told the tester that there were no children in the complex and that the tester should seek other facilities more suitable for children in order for the child to have a place to play.
8. On or about September 20, 2005, the second tester called Respondent Rosa A. Terrazas and asked if the unit was still available. Respondent Rosa A. Terrazas informed the tester that the unit was available; however, it was for 1 adult or 2 adults (a couple). Respondent Rosa A. Terrazas stated that she did not allow children there. Respondent Rosa A. Terrazas then asked the tester how many were in her party and the tester said that she was inquiring for herself only. Respondent Rosa A. Terrazas then said the unit would be ideal for one person.
9. During the investigation, Respondent Rosa A. Terrazas acknowledged that she submitted advertisements where she was seeking adult only tenants. Respondent Rosa A. Terrazas also stated that no one has ever told her it was wrong to advertise for adults only.
10. By discriminating in the rental of a dwelling because of familial status, Respondent Rosa A. Terrazas and Jesus Terrazas, Jr., discriminated against Complainant Border Fair Housing Center in violation of 42 U.S.C. § 3604(a).

By publishing advertisements with respect to the sale or rental of a dwelling that indicate a preference, limitation, and discrimination because of familial status, Respondents Rosa A. Terrazas and Jesus Terrazas, Jr., discriminated against Complainant Border Fair Housing Center in violation of 42 U.S.C. § 3604(c).

12. Because of the discriminatory conduct of Respondent Rosa Terrazas and Jesus Terrazas, Jr., Complainant Border Fair Housing Center has suffered damages, including economic loss due to diversion of their resources and a frustration of mission. Complainant Border Fair Housing Center provides educational outreach and training to housing consumers, housing providers, and others within El Paso and its surrounding areas in an effort to counteract the effects of Respondent's actions.

III. CONCLUSION

WHEREFORE, the Secretary of the United States Department of Housing and Urban Development, through the Office of the General Counsel, and pursuant to 42 U.S.C. § 3610(g) (2) (A) of the Act, hereby charges Respondent Rosa A. Terrazas and Jesus Terrazas, Jr., with engaging in discriminatory housing practices in violation of 42 U.S.C. § 3604(a) and (c) of the Act, and prays that an Order be issued that:

Declares that the discriminatory housing practices of Respondents Rosa A. Terrazas and Jesus Terrazas, Jr., as set forth above, violated the Fair Housing Act, as amended, 42 U.S.C. § 3601 *et seq.*;

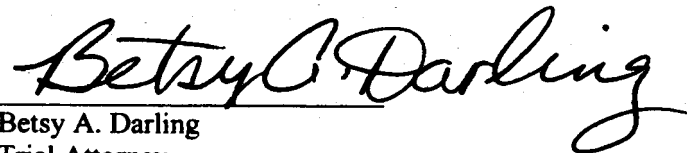
2. Enjoins Respondents Rosa A. Terrazas and Jesus Terrazas, Jr., their agents, employees, and successors, and all other persons in active concert or participation with any of them from discriminating because of familial status against any person in any aspect of the purchase or rental of a dwelling;
3. Directs Respondents Rosa A. Terrazas and Jesus Terrazas, Jr., their agents, employees, and successors to attend Fair Housing training;
4. Awards such damages as will fully compensate Complainant Border Fair Housing Center, an aggrieved person, for damages, including compensation for economic loss for diversion of their resources and a frustration of mission caused by Respondent Rosa Terrazas' discriminatory conduct pursuant to 42 U.S.C. § 3604 (a) and (c).
5. Awards a civil penalty against Respondents Rosa A. Terrazas and Jesus Terrazas, Jr., for each violation of the Act committed, pursuant to 42 U.S.C. § 3612(g) (3).

The Secretary of HUD further prays for additional relief as may be appropriate under 42 U.S.C. § 3612(g) (3).

Respectfully submitted,



William J. Daley
Regional Counsel
Office of General Counsel
Region VI



Betsy A. Darling
Trial Attorney
U.S. Department of Housing
and Urban Development
Office of General Counsel
801 Cherry Street, Unit #45, Ste. 2500
Fort Worth, TX 76102
Phone: (817) 978-5998
Fax: (817) 978-5563

9/14/17
Date

DETERMINATION OF REASONABLE CAUSE

CASE NAME Border Fair Housing & Economic Justice Center v Rosa A Terrazas and Jesus Terrazas, Jr.

CASE NUMBER: 06-06-0090-8

JURISDICTION

On October 25, 2005, the Border Fair Housing/Economic Justice Center filed a complaint with HUD alleging injury based on the property owner's discriminatory advertising, statements and notices and refusal to rent based on familial status.

The organization alleges that the most recent act occurred on September 15, 2005, and is continuing. The subject property is located at 1427 Wyoming, El Paso, TX 79902.

The property in question is not exempt under the applicable statutes. If proven, the allegations would constitute violations of Sections 804 (a) and 804 (c) of Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988.

The Respondent is not a recipient of any federal funding or other federal financial assistance.

II COMPLAINT ALLEGATIONS

The Border Fair Housing and Economic Justice Center (BFHC) is a private, non-profit civil rights organization whose mission is to ensure greater compliance with Federal, state, and local laws through a multi-faceted fair housing program that includes collaboration and partnership with the public and private sector.

As part of fulfilling this mission, the BFHC monitored advertisements for the rental housing in the Thrifty Nickel in El Paso, Texas. The review discovered that the respondent had placed the following ad in the Thrifty Nickel between September 8, 2005 through September 22, 2005, "APARTMENTS for rent downtown, 1427 Wyoming, lovely one bedroom apartment, for 2 adults, no pets, has stove/refrigerator, water paid. \$295/\$100 deposit. 565-2882 or cell 539-5073". Upon discovering this ad, the BFHC conducted telephonic testing of the respondent on September 20, 2005 to determine whether or not the respondent would lease to families with children. Both testers were told that the apartments would be leased to adults only and that children were not allowed.

The BFHC alleged that the respondent's discriminatory advertisements and its policy restricting occupancy to adults only discriminates against families with children under the age of 18 and violates the Federal Fair Housing Act. The BFHC alleged that the respondent's practices frustrated its mission to provide equal housing opportunities to persons regardless of their race, color, religion, sex, national origin, familial status or disability. Additionally, the BFHC was required to divert its already limited resources from other programs and activities to address the apparent discriminatory practices.

III. RESPONDENT DEFENSES

The respondent denied the complainant's allegations of discrimination, and stated that she had not discriminated against anybody. She said she had placed the ad for adults only in the Thrifty Nickel Newspaper and that nobody had advised her that she was doing wrong.

IV. FINDINGS AND CONCLUSION

The investigation revealed that the subject property is an apartment complex consisting of 15 one-bedroom units. The property is located at 1427 Wyoming Street, El Paso, Texas, and owned by Rosa Terrazas and Jesus Terrazas Jr.

There is no dispute that the respondent has advertised one or more units in the Thrifty Nickel newspaper.

The respondent confirmed that she had run ads for adult renters that had been published in the newspaper for many years.

The investigation revealed that the respondent placed the following ad in the Thrifty Nickel:

"APARTMENTS for rent downtown", 1427 Wyoming, lovely one bedroom apartment, for 2 adults, no pets, has stove/refrigerator, water paid. \$295/\$100 deposit. 565-2882 or cell 539-5073".

The ad ran in the Thrifty Nickel from September 3, 2005 through September 22, 2005.

Based on the content of the ad and the expressed limitation for 2 adults, the Department finds that there is Reasonable Cause to believe the respondent engaged in discriminatory advertising in violation of Section 804c of the Fair Housing Act.

The investigation revealed that on September 20, 2005, the complainant conducted telephonic testing of the respondent to determine whether or not the respondent would limit the rental of her advertised unit to adults only.

The first tester posed as a mother with a six year old son. The first tester informed the respondent that she was looking for an apartment for herself and her six year old son. The respondent told this tester that the unit was only available for adults and that there were no children at the property. The respondent told the tester that she should seek a place that would be better suited for children so her child would have a place to play.

The second tester was a female who informed the respondent that she was single and seeking an apartment for only herself. The tester contacted the respondent to determine if the advertised unit was still available. The respondent confirmed that the unit was available, but that she would rent it to only one single adult or an adult couple. The respondent informed the tester that she did not allow children at the complex. The respondent asked the tester how many persons would be

living in the unit, and the tester responded that she would be the only occupant. The respondent told the tester that the unit was ideal for one person.

Examination of information submitted by the respondent disclosed that, as of December 12, 2006, two families with children resided at the subject complex. A single female and her two-year old daughter had resided in unit #4 for six (6) months, and another single female had resided in unit #13 for four months with her one year old son. Both of the tenants moved into the subject property after the October 15, 2005 filing of the complaint.

The examination of information submitted by the respondent also disclosed that a single female and her eighteen (18) year old son had resided in unit #1421 of a duplex owned by the respondent for four (4) months at of December 12, 2006. This tenant also moved into the respondent's unit after the October 15, 2005 filing of the complaint.

The investigation revealed that a single female, whose husband died about a year prior to this investigation, and her son had resided in a house located at 8801 Mount Chinati Street, El Paso, Texas for over 20 years. This house was across the street from the subject property and owned by the respondent.

During the investigation, the respondent acknowledged that she placed ads seeking adult tenants only. The respondent further acknowledged that she had been in the rental business for over 30 years and no one had ever told her that it was wrong to advertise for only adult tenants.

Based upon the statements made to the complainant's two testers and the respondent's affirmation that she was not aware that it was illegal to limit occupancy to adults only, there is Reasonable Cause to believe that Section 804 (a) and Section 804 (c) of the Fair Housing Act have been violated because of the respondent's expressed preference for adults only which limits the availability of units to families with children under the age of 18.

V ADDITIONAL INFORMATION

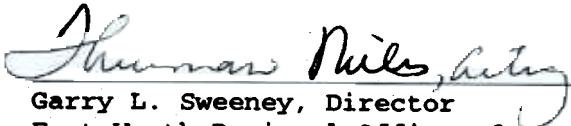
Notwithstanding this determination by HUD, the Fair Housing Act provides that the complainant may file a civil action in an appropriate federal district court or state court within two years after the occurrence or termination of the alleged discriminatory housing practice. The computation of this two-year period does not include the time during which this administrative proceeding was pending. In addition, upon the application of either party to such civil action, the court may appoint an attorney, or may authorize the commencement of or continuation of the civil action without the payment of fees, costs, or security, if the court determines that such party is financially unable to bear the costs of the lawsuit.

The Department's regulations implementing the Act require that a dismissal, if any, be publicly disclosed, unless the Respondent requests that no such release be made. Such request must be made by the Respondent within thirty (30) days of receipt of the determination

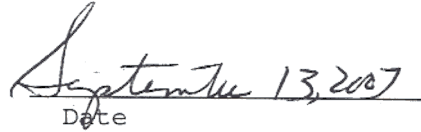
to the Field Office of Fair Housing and Equal Opportunity at the address contained in the enclosed summary. Notwithstanding such request by the Respondent, the fact of a dismissal, including the names of all parties, is public information and is available upon request.

A copy of the final investigative report can be obtained from:

Garry L. Sweeney, Director
Fort Worth Regional Office of
Fair Housing and Equal Opportunity
P.O. Box 2905
Fort Worth, TX 76113-2905



Garry L. Sweeney, Director
Fort Worth Regional Office of Fair Housing
and Equal Opportunity, Region VI


Date

IMPORTANT NOTICE

THE ENCLOSED CHARGE OF DISCRIMINATION ISSUED BY THE SECRETARY OF THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT GIVES YOU THE FOLLOWING IMPORTANT RIGHTS AND RESPONSIBILITIES:

I. Election of Civil Action or Administrative Proceeding

If you are either the person charged or any aggrieved person on whose behalf this charge is brought, you have the right to choose one of two judicial forums in which the issues involved in the charge will be heard. The two forums are: (1) a United States government administrative proceeding before an independent United States government administrative law judge and (2) a United States district court (district court).

If you want to have your case tried in a United States government administrative proceeding, you need take no further action. If you take no further action and if no other person decides to go to district court, a United States administrative hearing automatically will be held before an independent United States government administrative law judge.

If no person elects to have the claims asserted in this charge decided in a civil action in district court, an administrative proceeding will be conducted before a United States government administrative law judge:

ON: December 11, 2007

IN OR NEAR: El Paso, Texas

at a **TIME and PLACE** set forth by another order of a United States government administrative law judge. The proceeding will be conducted in accordance with the Consolidated HUD Hearing Procedures for Civil Rights Matters set forth at 24 C.F.R. Part 180.

A. Advantages of Administrative Proceeding

1. Speed

The administrative hearing process was created by Congress to provide for a quick and inexpensive way to resolve housing discrimination charges. 42 U.S.C. Section 3612(d) & (g). The time from the issuance of the charge until the issuance of the administrative law judge's decision is about six months. In contrast, because of the large number of criminal cases in district courts, which, under the Speedy Trial Act, take precedence over all other cases, it is not uncommon for civil litigation such as fair housing cases to take on average at least two years to be litigated in district court.

2. Free HUD Counsel

If this case is tried in a United States government administrative proceeding, an attorney from the United States Department of Housing and Urban Development will prosecute the case on behalf of the aggrieved person at no charge. Providing the opportunity to have a United States Department of Housing and Urban Development lawyer prosecute the case was intended by Congress to give aggrieved persons expert advice from lawyers representing the Department that is in charge of implementing the Fair Housing Act.

3. Remedy

The independent United States government administrative law judge may order injunctive and other equitable relief and monetary relief for actual damages (including damages caused by humiliation) and may also impose civil penalties.

B. Advantages of Judicial Proceeding

1. Jury Trial

If this case proceeds to a district court, any party may choose to have the case decided by a jury.

2. Free Department of Justice Counsel

If the case proceeds to a district court, an attorney from the United States Department of Justice will prosecute the case at no charge.

3. Remedy

The district court may order injunctive and other equitable relief and monetary relief for actual damages (including damages caused by humiliation) and punitive damages.

C. Procedure if an Election is made

If you decide to go to district court, an election to do so must be filed with the Chief Docket Clerk, at the following address, no later than **October 10, 2007**. Documents are not filed until received by the Chief Docket Clerk.

Chief Docket Clerk
Office of Administrative Law Judges
Office of Hearings and Administrative Appeals
1707 H St., NW, 11th Floor
Washington, DC 20006
Telephone Number: 202-254-0000
Facsimile Machine Number: 202-254-0011

You also must give written notice of the election to go to district court to the individuals listed below:

COMPLAINANT(S): Anibal Olague, Executive Director
Border Fair Housing & Economic Justice Center
1444 Montana Ave., Ste. 100
El Paso, TX 79902

COMPLAINANT'S REPRESENTATIVE: None at this time

RESPONDENT(S): Rosa A. Terrazas, Owner
2600 Richmond
El Paso, TX 79902-1720

Jesus Terrazas, Jr., Owner
2600 Richmond
El Paso, TX 79902-1720

RESPONDENT'S REPRESENTATIVE: Jesus Terrazas III
aka Jesus "Chuyito" Terrazas
2260 West Holcombe
Houston, TX 77030

OFFICIALS:

Betsy A. Darling
Trial Attorney
U.S. Department of Housing and
Urban Development
Office of General Counsel
801 Cherry Street, Unit #45, Ste. 2500
Fort Worth, TX 76102

Joseph A. Pelletier
Acting Assistant General Counsel
for Fair Housing Enforcement
Office of General Counsel
Department of Housing and
Urban Development
451 Seventh St., SW, Room 10270
Washington, DC 20410

Bryan Greene
Deputy Assistant Secretary for Enforcement
and Programs
Office of Fair Housing and Equal Opportunity
Department of Housing and Urban Development
451 Seventh St., SW, Room 5204
Washington, DC 20410

If a timely election to proceed in District Court is made, the Chief Administrative Law Judge will issue a "Notice of Election of Judicial Determination."

II. Procedural Rights and Responsibilities for Administrative Proceeding

A. Answer

If you are the respondent in the administrative proceeding, you must file a written answer to the attached charge by **October 15, 2007**, (within 30 days of the service of the charge). The answer must include:

1. A statement that the respondent admits, denies, or does not have and is unable to obtain sufficient information to admit or deny, each allegation made in the charge. A statement of lack of information shall have the effect of a denial. Any allegation that is not denied shall be deemed admitted.

2. A statement of each affirmative defense and a statement of the facts supporting each affirmative defense.

Failure to file an answer within the 30-day period following service of the Charge shall be deemed an admission of all matters of fact recited in the Charge and may result in the entry of a default decision. 24 C.F.R. Section 180.420(b).

B. Request for Intervention

If you are the aggrieved person on whose behalf the attached charge was filed, you may participate as a party in the administrative proceeding by filing a timely request for intervention. In order for requests for intervention to be timely, they must be filed with the Chief Docket Clerk within 50 days after service of the charge. 24 C.F.R. Section 180.310(b).

C. Discovery

All discovery for the administrative proceeding will be completed by **November 26, 2007**, in accordance with 24 C.F.R. Section 180.500(a). If no person elects to have the claims asserted in this charge decided in a civil action in district court, a lawyer from the United States Department of Housing and Urban Development will contact you or your representative to discuss scheduling the discovery of information relevant to transactions and events related to the enclosed charge.

Discovery of electronic information is treated on equal footing with paper documents. Electronically stored information is defined expansively to include any type of information that is stored electronically, including, but not limited to: email messages and attachments; other electronic communications; word processing documents; spreadsheets; tables; data; photographs; and telephone logs.

In order to meet your discovery obligations, you are advised to take all reasonable steps to:

- Prevent deleting or discarding any information, including electronic information, related to the enclosed charge of discrimination.
- Assess how information, including electronic information, is stored, how it can be produced, and what evidence is relevant to the case.

III. Restrictions on Respondent's Sale or Rental of Property

If at any time following the service of the attached charge, the respondent intends to enter into a contract, sale, encumbrance, or lease with any person regarding the property that is the subject of the charge, the respondent must provide a copy of the charge to such person before the respondent and that person enter into the contract, sale, encumbrance or lease.

If there is anything in this notice that you do not understand or if you have additional questions, contact: Betsy Darling, Trial Attorney, at (817) 978-5998.

Attachments (Charge of Discrimination and Determination of Reasonable Cause)

CERTIFICATE OF SERVICE

I hereby certify that the foregoing "Notice", "Charge of Discrimination" and "Determination" in HUD/Border Fair Housing & Economic Justice Center v. Rosa A. Terrazas and Jesus Terrazas, Jr., FHEO Case No. 06-06-0090-8, were sent to the following individuals in the manner indicated:

By Federal Express Overnight:

COMPLAINANTS:

Anibal Olague, Executive Director
Border Fair Housing & Economic Justice Center
1444 Montana Ave., Ste. 100
El Paso, TX 79902

COMPLAINANT'S REPRESENTATIVE:

None at this time

RESPONDENTS:

Rosa A. Terrazas, Owner
2600 Richmond
El Paso, TX 79930-1720

Jesus Terrazas, Jr., Owner
2600 Richmond
El Paso, TX 79930-1720

By Facsimile and Federal Express Overnight:

RESPONDENT'S REPRESENTATIVE:

Representative for Rosa A. Terrazas, Owner:

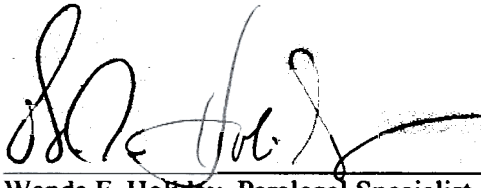
Jesus Terrazas III
aka Jesus "Chuyito" Terrazas
2260 West Holcombe
Houston, TX 77030

By Facsimile and First Class Mail:

Chief Docket Clerk
Office of Administrative Law Judges
Office of Hearings and Administrative Appeals
1707 H St., NW, 11th Floor
Washington, DC 20006

FAX: 202-254-0011

on this _14th_ day of _September_, 2007.

A handwritten signature in black ink, appearing to read 'Wanda F. Holiday', is written over a horizontal line.

Wanda F. Holiday, Paralegal Specialist
U.S. Department of Housing
and Urban Development
Office of Regional Counsel
801 Cherry Street
Unit #45, Ste. 2500
Fort Worth, TX 76102
(817) 978-5987